IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Colligan, Thomas R.	§	Group Art Unit: 2179
Appl. No. 09/727,667	§	Examiner: Chuong, Truc T
Filed: 12/01/2000	§	
For: SYSTEM AND METHOD FOR PROVIDING ACOUSTIC MANAGEMENT IN A COMPUTER	§	

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Responsive to the Final Office Action, dated June 13, 2006, please consider the following remarks in connection with the pre-appeal brief request for review. Review of the final rejection is requested for the following reasons.

1. The Rejection Of Claim 1 And Its Dependent Claims Is Not Supported By A *Prima Facie* Case Of Obviousness

Claim 1 and its dependent claims 2 and 4-8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Singer (U.S. Patent No. 6,314,473) in view of Funches (U.S. Patent No. 5,305,160) and further in view of Stancil (U.S. Patent No. 6,601,168). A *prima facie* case of obviousness is missing, however, at least because the combination of references fails to disclose each element of the claims or suggest the missing elements.

The rejection ignores the claim 1 limitation that adjustments by at least one power management system in the computer are made corresponding to adjustments in an operational level of at least one subsystem of the computer to achieve the selected acoustic level. By ignoring this limitation, the rejection then points to a section of Singer (col. 7, l. 62 to col. 8, l. 8 and Figs. 4-8) that clearly teaches independent manipulation of power consumption and noise

level, not automatic corresponding adjustments to a power management system in response to adjustments in an operational level. For instance, Singer Figures 4-8 show separate "power saver mode" check boxes that are not affected by acoustic adjustments, Figure 6 shows a completely separate control box for power consumption only, and Figure 7 and 8 show independent controls for noise level and power consumption. Thus the rejection fails to show any prior art teaching or suggestion for the claim 1 limitation "making corresponding adjustments by at least one power management system in the computer," and is therefore insufficient to create a *prima facie* case of obviousness.

The rejection also fails to provide a prior teaching or suggesting for the claim 1 limitation "performing a post-test to determine if further adjustment is desired." The rejection cites a section of Stancil (Abstract and col. 4, l. 44 to col. 5, l. 3) that merely describes traditional thermal control via fan speed based on temperature feedback, with fan speed changes made at a stored ramp rate. Audio noise is never monitored nor "post-tested" by Stancil, as the fan will adjust at the stored ramp rate to whatever speed (and audio noise) is required to adequately cool the CPU. Applicant therefore fails to see how operating a closed-loop fan control system to control temperature – not audio level – teaches or suggests, to one adjusting an operational level to achieve a selected acoustic level and making corresponding adjustments by at least one power management system, "performing a post-test to determine if further adjustment is desired."

In the rejection of claim 4, the rejection fails to show a prior art teaching of "adjusting the speed of an internal fan" that occurs as part of "adjusting an operational level of at least one subsystem of the computer to achieve the selected acoustic level" as claimed. Stancil, which was cited for this claim, adjusts the speed of a fan to achieve a desired CPU temperature, not a selected acoustic level. Neither the references, nor the rejection, shows any teaching, suggestion, or motivation, to modify Stancil's temperature control system to achieve a selected acoustic level rather than a desired CPU temperature.

The rejection of claim 5, which depends from claim 4, further fails to show a prior art teaching of "making corresponding adjustments to overall operation of a portion of the computer to maintain a heat production level of the computer at a level that can be managed by the internal fan operating at the adjusted speed" as claimed. On this point, the rejection's citation of Stancil

is exactly opposite to the claim teaching—Stancil adjusts fan speed based on heat production level, instead of adjusting heat production level based on fan speed as claimed.

The rejection of claim 7 fails to show any prior art teaching of the adjusting an operational level of at least one subsystem of the computer comprising adjusting a speed of a peripheral bus and a peripheral device connected to the peripheral bus. The rejection points to Stancil's fan as attached to an SMBus, but points to no prior art teaching of adjusting the speed of the SMBus or any other bus.

Other reasons for the patentability of claims 1, 2, and 4-8 have been previously presented and will be maintained should the filing of an appeal brief become necessary.

2. The Rejection Of Claims 9, 17, 30, 31, 32, And Their Respective Dependent Claims Is Not Supported By A *Prima Facie* Case Of Obviousness

The remaining claims were rejected under 35 U.S.C. § 103(a) as unpatentable over Singer in view of Funches and further in view of Stancil under the same rationales applied to claims 1, 2, and 4-8. A *prima facie* case of obviousness is missing from these rejections, however, at least for similar reasons to those presented above.

Other reasons for the patentability of claims 9, 10, 12-18, 20-24, and 30-36 have been previously presented and will be maintained should the filing of an appeal brief become necessary.

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
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on August 14, 2006

Signature Krista Myrick

Typed or printed name Krista Myrick

Application Number	Filed
09/727,667	December 1, 2000
First Named Inventor	
Colligan, Thomas R.	
Art Unit	**Examiner**
2179	Chuong, Truc T.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☑ attorney or agent of record. Registration number 40,013

☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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8-14-2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of one forms are submitted.

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